

# ADMINISTRATIVE PROCEDURES ACT OF 1969 (EXCERPT)

## Act 306 of 1969

### CHAPTER 1

#### GENERAL PROVISIONS

#### 24.201 Administrative procedures; short title.

Sec. 1. This act shall be known and may be cited as the “administrative procedures act of 1969”.

**History:** 1969, Act 306, Eff. July 1, 1970.

**Compiler's note:** For transfer of powers and duties of office of regulatory reform from the executive office of the governor to the department of management and budget, see E.R.O. No. 2002-7, compiled at MCL 10.153 of the Michigan Compiled Laws.

**Popular name:** Act 306

**Popular name:** APA

#### 24.203 Definitions; A to G.

Sec. 3. (1) “Adoption of a rule” means that step in the processing of a rule consisting of the formal action of an agency establishing a rule before its promulgation.

(2) “Agency” means a state department, bureau, division, section, board, commission, trustee, authority or officer, created by the constitution, statute, or agency action. Agency does not include an agency in the legislative or judicial branch of state government, the governor, an agency having direct governing control over an institution of higher education, the state civil service commission, or an association of insurers created under the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.100 to 500.8302 of the Michigan Compiled Laws, or other association or facility formed under Act No. 218 of the Public Acts of 1956 as a nonprofit organization of insurer members.

(3) “Contested case” means a proceeding, including rate-making, price-fixing, and licensing, in which a determination of the legal rights, duties, or privileges of a named party is required by law to be made by an agency after an opportunity for an evidentiary hearing. When a hearing is held before an agency and an appeal from its decision is taken to another agency, the hearing and the appeal are deemed to be a continuous proceeding as though before a single agency.

(4) “Committee” means the joint committee on administrative rules.

(5) “Court” means the circuit court.

(6) “Guideline” means an agency statement or declaration of policy which the agency intends to follow, which does not have the force or effect of law, and which binds the agency but does not bind any other person.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1970, Act 40, Imd. Eff. July 1, 1970;—Am. 1977, Act 108, Eff. Jan. 1, 1978;—Am. 1988, Act 277, Imd. Eff. July 27, 1988.

**Compiler's note:** Section 2 of Act 277 of 1988 provides:

“The amendment to section 3 of Act No. 306 of the Public Acts of 1969, being section 24.203 of the Michigan Compiled Laws, pursuant to this amendatory act is intended to codify, approve, and validate the actions and long-standing practices taken by the associations and facilities mentioned in this amendatory act retroactively to the time of their original creation. It is the intent of this amendatory act to rectify the misconstruction of the applicability of the administrative procedures act of 1969 by the court of appeals in League General Insurance Company v Catastrophic Claims Association, Case No. 93744, December 21, 1987, with respect to the imposition of rule promulgation requirements on the catastrophic claims association as a state agency, and to further assure that the associations and facilities mentioned in this amendatory act, and their respective boards of directors, shall not hereafter be treated as a state agency.”

**Popular name:** Act 306

**Popular name:** APA

#### 24.205 Definitions; L to R.

Sec. 5. (1) “License” includes the whole or part of an agency permit, certificate, approval, registration, charter, or similar form of permission required by law, but does not include a license required solely for revenue purposes, or a license or registration issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(2) “Licensing” includes agency activity involving the grant, denial, renewal, suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of a license.

(3) “Michigan register” means the publication described in section 8.

(4) “Notice” means a written or electronic record that informs a person of past or future action of the person generating the record.

(5) “Notice of objection” means the record adopted by the committee that indicates the committee's formal objection to a proposed rule.

(6) "Party" means a person or agency named, admitted, or properly seeking and entitled of right to be admitted, as a party in a contested case. In a contested case regarding an application for a license, party includes the applicant for that license.

(7) "Person" means an individual, partnership, association, corporation, limited liability company, limited liability partnership, governmental subdivision, or public or private organization of any kind other than the agency engaged in the particular processing of a rule, declaratory ruling, or contested case.

(8) "Processing of a rule" means the action required or authorized by this act regarding a rule that is to be promulgated, including the rule's adoption, and ending with the rule's promulgation.

(9) "Promulgation of a rule" means that step in the processing of a rule consisting of the filing of a rule with the secretary of state.

(10) "Record" means information that is inscribed on a paper or electronic medium.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1982, Act 413, Eff. Jan. 1, 1984;—Am. 1999, Act 262, Eff. Apr. 1, 2000;—Am. 2004, Act 23, Imd. Eff. Mar. 10, 2004;—Am. 2006, Act 460, Imd. Eff. Dec. 20, 2006.

**Compiler's note:** Enacting section 1 of Act 460 of 2006 provides:

"Enacting section 1. Section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205, as amended by this amendatory act, is curative and intended to express the original intent of the legislature regarding the application of section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205, as amended by 2004 PA 23."

**Popular name:** Act 306

**Popular name:** APA

#### **24.207 "Rule" defined.**

Sec. 7. "Rule" means an agency regulation, statement, standard, policy, ruling, or instruction of general applicability that implements or applies law enforced or administered by the agency, or that prescribes the organization, procedure, or practice of the agency, including the amendment, suspension, or rescission of the law enforced or administered by the agency. Rule does not include any of the following:

- (a) A resolution or order of the state administrative board.
- (b) A formal opinion of the attorney general.
- (c) A rule or order establishing or fixing rates or tariffs.
- (d) A rule or order pertaining to game and fish and promulgated under parts 401, 411, and 487 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40101 to 324.40119, 324.41101 to 324.41105, and 324.48701 to 324.48740.
- (e) A rule relating to the use of streets or highways, the substance of which is indicated to the public by means of signs or signals.
- (f) A determination, decision, or order in a contested case.
- (g) An intergovernmental, interagency, or intra-agency memorandum, directive, or communication that does not affect the rights of, or procedures and practices available to, the public.
- (h) A form with instructions, an interpretive statement, a guideline, an informational pamphlet, or other material that in itself does not have the force and effect of law but is merely explanatory.
- (i) A declaratory ruling or other disposition of a particular matter as applied to a specific set of facts involved.
- (j) A decision by an agency to exercise or not to exercise a permissive statutory power, although private rights or interests are affected.
- (k) Unless another statute requires a rule to be promulgated under this act, a rule or policy that only concerns the inmates of a state correctional facility and does not directly affect other members of the public, except that a rule that only concerns inmates which was promulgated before December 4, 1986, shall be considered a rule and shall remain in effect until rescinded but shall not be amended. As used in this subdivision, "state correctional facility" means a facility or institution that houses an inmate population under the jurisdiction of the department of corrections.
- (l) A rule establishing special local watercraft controls promulgated under former 1967 PA 303. A rule described in this subdivision may be rescinded as provided in section 80113(2) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80113.
- (m) All of the following, after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.22217:

- (i) The designation, deletion, or revision of covered medical equipment and covered clinical services.
- (ii) Certificate of need review standards.
- (iii) Data reporting requirements and criteria for determining health facility viability.
- (iv) Standards used by the department of community health in designating a regional certificate of need

review agency.

(v) The modification of the 100 licensed bed limitation for short-term nursing care programs set forth in section 22210 of the public health code, 1978 PA 368, MCL 333.22210.

(n) A policy developed by the family independence agency under section 6(3) of the social welfare act, 1939 PA 250, MCL 400.6, setting income and asset limits, types of income and assets to be considered for eligibility, and payment standards for administration of assistance programs under that act.

(o) A policy developed by the family independence agency under section 6(4) of the social welfare act, 1939 PA 280, MCL 400.6, to implement requirements that are mandated by federal statute or regulations as a condition of receipt of federal funds.

(p) The provisions of an agency's contract with a public or private entity including, but not limited to, the provisions of an agency's standard form contract.

(q) A policy developed by the department of community health under the authority granted in section 111a of the social welfare act, 1939 PA 280, MCL 400.111a, to implement policies and procedures necessary to operate its health care programs in accordance with an approved state plan or in compliance with state statute.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1986, Act 243, Imd. Eff. Dec. 4, 1986;—Am. 1988, Act 333, Imd. Eff. Sept. 30, 1988;—Am. 1988, Act 363, Imd. Eff. Dec. 16, 1988;—Am. 1989, Act 288, Imd. Eff. Dec. 26, 1989;—Am. 1995, Act 224, Eff. Mar. 28, 1996;—Am. 1996, Act 489, Eff. Mar. 31, 1997;—Am. 1999, Act 262, Eff. Apr. 1, 2000;—Am. 2000, Act 216, Imd. Eff. June 27, 2000.

**Administrative rules:** R 791.1101 et seq. of the Michigan Administrative Code.

**Popular name:** Act 306

**Popular name:** APA

#### **24.207a “Small business” defined.**

Sec. 7a. “Small business” means a business concern incorporated or doing business in this state, including the affiliates of the business concern, which is independently owned and operated and which employs fewer than 250 full-time employees or which has gross annual sales of less than \$6,000,000.00.

**History:** Add. 1984, Act 273, Eff. Mar. 29, 1985;—Am. 1999, Act 262, Eff. Apr. 1, 2000.

**Popular name:** Act 306

**Popular name:** APA

#### **24.208 Michigan register; publication; cumulative index; contents; public subscription; fee; synopsis of proposed rule or guideline; transmitting copies to office of regulatory reform.**

Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

(a) Executive orders and executive reorganization orders.

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.

(d) Proposed administrative rules.

(e) Notices of public hearings on proposed administrative rules.

(f) Administrative rules filed with the secretary of state.

(g) Emergency rules filed with the secretary of state.

(h) Notice of proposed and adopted agency guidelines.

(i) Other official information considered necessary or appropriate by the office of regulatory reform.

(j) Attorney general opinions.

(k) All of the items listed in section 7(m) after final approval by the certificate of need commission under section 22215 of the public health code, 1978 PA 368, MCL 333.22215.

(2) The office of regulatory reform shall publish a cumulative index for the Michigan register.

(3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.

(4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.

(5) An agency shall electronically transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

**History:** Add. 1982, Act 413, Eff. Jan. 1, 1984;—Am. 1984, Act 273, Eff. Mar. 29, 1985;—Am. 1986, Act 292, Imd. Eff. Dec. 22, 1986;—Am. 1988, Act 333, Imd. Eff. Sept. 30, 1988;—Am. 1999, Act 262, Eff. Apr. 1, 2000;—Am. 2004, Act 23, Imd. Eff. Mar. 10, 2004.

**Popular name:** Act 306

**Popular name:** APA

#### **24.211 Construction of act.**

Sec. 11. This act shall not be construed to repeal additional requirements imposed by law.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1970, Act 40, Imd. Eff. July 1, 1970.

**Popular name:** Act 306

**Popular name:** APA